

made and laid upon the table with no intervening action or debate; that no further motions be in order to any of the nominations; that the President be immediately notified of the Senate's action and the Senate then resume legislative session.

The PRESIDING OFFICER. Without objection, it is so ordered.

The nominations considered and confirmed en bloc are as follows:

NOMINATIONS PLACED ON THE SECRETARY'S DESK

IN THE FOREIGN SERVICE

PN1377—3 FOREIGN SERVICE nomination of Sharon Lee Cromer, which was received by the Senate and appeared in the Congressional Record of January 30, 2014.

PN1567 FOREIGN SERVICE nominations (4) beginning Michael A. Lally, and ending John E. Simmons, which nominations were received by the Senate and appeared in the Congressional Record of April 10, 2014.

PN1568 FOREIGN SERVICE nominations (11) beginning Andrew J. Billard, and ending Brenda Vanhorn, which nominations were received by the Senate and appeared in the Congressional Record of April 10, 2014.

PN1569 FOREIGN SERVICE nominations (456) beginning Melinda Masonis, and ending Jeffrey R. Zihlman, which nominations were received by the Senate and appeared in the Congressional Record of April 10, 2014.

PN2137 FOREIGN SERVICE nomination of James D. Lindley, which was received by the Senate and appeared in the Congressional Record of November 13, 2014.

LEGISLATIVE SESSION

The PRESIDING OFFICER. The Senate will now resume legislative session.

SECURITY CLEARANCE ACCOUNTABILITY, REFORM, AND ENHANCEMENT ACT

Mr. WALSH. I ask unanimous consent that the Senate proceed to the consideration of Calendar No. 606, S. 1744.

The PRESIDING OFFICER. The clerk will report the bill by title.

The legislative clerk read as follows:

A bill (S. 1744) to strengthen the accountability of individuals involved in misconduct affecting the integrity of background investigations, to update guidelines for security clearances, and for other purposes.

There being no objection, the Senate proceeded to consider the bill, which had been reported from the Committee on Homeland Security and Governmental Affairs, with an amendment and an amendment to the title.

(Strike out all after the enacting clause and insert the part printed in italic.)

SECTION 1. SHORT TITLE.

This Act may be cited as the "Security Clearance Accountability, Reform, and Enhancement Act".

SEC. 2. DEFINITIONS.

In this Act—

(1) the term "agency" has the meaning given the term in Executive Order 13467 (73 Fed. Reg. 38103);

(2) the term "appropriate agency" means—

(A) in the case of a prime contractor for a covered contract, the agency with which the prime contractor entered the covered contract; or

(B) in the case of a subcontractor for a covered contract, any agency on whose behalf the subcontractor is performing work under the covered contract;

(3) the term "appropriate congressional committees" means—

(A) the Committee on Homeland Security and Governmental Affairs and the Select Committee on Intelligence of the Senate; and

(B) the Committee on Oversight and Government Reform and the Permanent Select Committee on Intelligence of the House of Representatives;

(4) the term "background investigation" means any investigation required for the purpose of determining the—

(A) eligibility of a covered individual for logical and physical access to federally controlled facilities or information systems;

(B) suitability or fitness of a covered individual for Federal employment;

(C) eligibility of a covered individual for access to classified information or to hold a national security sensitive position; or

(D) fitness of a covered individual to perform work for or on behalf of the United States Government as a contractor employee;

(5) the term "covered contract" means a contract to conduct background investigations—

(A) between an agency and a prime contractor;

(B) between a prime contractor and a subcontractor, if the prime contractor has a contract with an agency; or

(C) between subcontractors, if one of the subcontractors has a contract with a prime contractor that has a contract with an agency;

(6) the term "covered individual" means an individual who—

(A) performs work for or on behalf of an agency; or

(B) seeks to perform work for or on behalf of an agency;

(7) the term "covered misconduct" means misconduct affecting the integrity of a background investigation conducted by or for an agency with investigative authority to conduct background investigations, including—

(A) falsification of any information relating to a background investigation; or

(B) other serious misconduct that compromises the integrity of a background investigation;

(8) the term "prime contractor" means an individual who enters into a contract with an agency; and

(9) the term "subcontractor" means an individual who has contracted with a prime contractor or with another subcontractor to perform a contract on behalf of an agency.

SEC. 3. ACCOUNTABILITY OF INDIVIDUALS INVOLVED IN MISCONDUCT AFFECTING THE INTEGRITY OF AGENCY BACKGROUND INVESTIGATIONS.

(a) MISCONDUCT BY FEDERAL EMPLOYEES.—

(1) UNFIT FOR FEDERAL EMPLOYMENT.—If an agency determines that an employee of the agency has engaged in covered misconduct, the employee shall be found unfit for Federal employment.

(2) FITNESS DETERMINATIONS.—An agency shall make a determination under paragraph (1) in accordance with any statutory, regulatory, or internal agency procedures applicable to investigating alleged misconduct by employees of the agency.

(3) PROHIBITION ON REEMPLOYMENT TO CONDUCT BACKGROUND INVESTIGATIONS.—If an agency determines under paragraph (1) that an individual is unfit for Federal employment, the individual shall not be appointed to or continue to occupy a position, as an employee of any agency, that requires its occupant to perform background investigations.

(b) MISCONDUCT BY EMPLOYEES UNDER CONTRACT.—

(1) INELIGIBILITY FOR PERFORMANCE OF WORK UNDER A COVERED CONTRACT.—If an appropriate agency, prime contractor, or subcontractor de-

termines that an individual performing work under a covered contract has engaged in covered misconduct, the individual shall be ineligible to perform background investigations under a covered contract.

(2) MANDATORY DISCLOSURE.—A covered contract shall include a provision requiring a prime contractor or subcontractor to disclose to each appropriate agency any allegation of covered misconduct by an employee of the prime contractor or subcontractor not later than 24 hours after the prime contractor or subcontractor discovers the alleged covered misconduct.

(3) INVESTIGATION OF COVERED MISCONDUCT.—

(A) CONTRACTOR INVESTIGATION.—A covered contract shall include a provision requiring that, not later than 5 business days after the date on which a prime contractor or subcontractor discloses an allegation under paragraph (2), the prime contractor or subcontractor shall refer the allegation of covered misconduct to the agency for investigation.

(B) AGENCY INVESTIGATION.—Nothing in subparagraph (A) shall be construed to prohibit an appropriate agency from conducting its own investigation into an allegation of covered misconduct.

(4) PROHIBITION ON REEMPLOYMENT TO CONDUCT BACKGROUND INVESTIGATIONS.—If an appropriate agency determines, based on an investigation conducted under paragraph (3), that an individual is ineligible to perform work under a covered contract under paragraph (1), the individual shall be prohibited from performing background investigations under any covered contract.

(5) MODIFICATION OF EXISTING CONTRACTS.—Not later than 30 days after the date of enactment of this Act, any covered contract that is in effect and was entered into before the date of enactment of this Act shall be modified to include the provisions required under paragraphs (2) and (3).

(c) REPORTING.—Not later than 1 year after the date of enactment of this Act, and annually thereafter, the President shall submit to the appropriate congressional committees a report providing—

(1) the number of individuals determined to be—

(A) unfit for Federal employment under subsection (a); or

(B) ineligible to perform work under a covered contract under subsection (b); and

(2) details of the covered misconduct that resulted in each determination described in paragraph (1).

SEC. 4. REVIEW AND UPDATE OF POSITION DESIGNATION GUIDANCE.

(a) GUIDELINES.—

(1) INITIAL REVIEW AND UPDATE OF GUIDANCE.—Not later than 180 days after the date of enactment of this Act, the President shall review and, if appropriate, update the guidance the President issues to assist agencies in determining—

(A) position sensitivity designation; and

(B) the appropriate background investigation to initiate for each position designation.

(2) REVIEWS AND REVISIONS OF POSITION DESIGNATIONS.—Not less frequently than every 5 years, the President, acting through relevant agencies (as determined by the President) and in accordance with the guidance described in paragraph (1), shall review and, if necessary, revise the position designation of positions within agencies.

(b) REPORTS TO CONGRESS.—Not later than 30 days after completing a review under subsection (a)(2), the President shall submit to the appropriate congressional committees a report on—

(1) any issues identified in the review; and

(2) the number of position designations revised as a result of the review.

(c) NO CHANGE IN AUTHORITY.—Nothing in this section limits or expands the authority of any agency to designate a position as sensitive or as requiring its occupant to have access to classified information.